IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 394 OF 2005

Laxman R. Ghadage ... Appellant
(Ori.Plaintiff)

V/s

Yashwant B. Kenjale
(since deceased)
Kalawati Y. Kenjale & ors. ... Respondents

Mr. S.S. Redekar for the appellant.

Mr. Ajit Kenjale for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 20TH JULY, 2005

P.C.:

1. This is an appeal preferred by the appellant against the judgment and order passed by the Addl. District Judge, Satara, dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Vaduj, dismissing the plaintiff's suit for injunction simplicitor.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff came with the case that he was owner of the suit property and the defendant was obstructing his possession in the suit property and hence perpetual injunction was sought for.

The defendant contested the suit on the ground that the suit property was purchased by him and the plaintiff had no concern therewith.

4. The learned Trial Judge adjudicated the dispute on merits and came to the conclusion that the plaintiff has failed to prove his ownership and, therefore, he was non-suited as he was held not entitled for perpetual injunction against the defendant.

The appeal was carried to the District Court. The learned Judge of the lower appellate Court came to the conclusion that the findings recorded by the Trial Court were just, legal and proper and, therefore, the appeal came to be dismissed. Hence the present appeal.

4. At the outset, it may be noted that there is no substantial question of law involved in this appeal. Both the Courts below, on the basis of evidence on

record, have come to the conclusion that the plaintiff has failed to prove either ownership title or lawful possession over the suit property and, as such, he was not entitled to perpetual injunction. I do not see any reason as to why this concurrent findings recorded by both the Courts below should be disturbed as it is clear that those are based on available evidence on record.

In the result, the appeal has no merits and stands dismissed. Consequently, Civil Application No. 1191 of 2004 also stands dismissed.

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